



February 20, 2007

HOUSE BILL No. 1622

DIGEST OF HB 1622 (Updated February 19, 2007 3:39 pm - DI 114)

Citations Affected: IC 6-2.5; noncode.

Synopsis: Sales tax on gasoline. Provides that the state gross retail tax may not be applied to the sale of: (1) gasoline after the pretax price of gasoline reaches \$1.77 per gallon; or (2) special fuel after the pretax price of special fuel reaches \$1.88 per gallon.

Effective: Upon passage; July 1, 2007.

**Oxley, Crawford, Cheatham,
GiaQuinta**

January 23, 2007, read first time and referred to Committee on Ways and Means.
February 19, 2007, amended, reported — Do Pass.

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HB 1622—LS 6659/DI 51+



February 20, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1622

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-7-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) **Notwithstanding**
3 **IC 6-2.5-2-2**, with respect to the sale of gasoline ~~which that~~ is
4 dispensed from a metered pump, a retail merchant shall collect, for
5 each unit of gasoline sold, state gross retail tax in an amount equal to
6 the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

7 (1) the ~~price per unit before the addition of state and federal taxes;~~
8 **lesser of the:**

9 (A) **price per unit before the addition of state and federal**
10 **taxes; or**

11 (B) **product of:**

12 (i) **one dollar and seventy-seven cents (\$1.77); multiplied**
13 **by**

14 (ii) **the gallon conversion index;**

15 **rounded to the nearest one cent (\$0.01); multiplied by**

16 (2) **six percent (6%).**

17 The retail merchant shall collect the state gross retail tax prescribed in

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1 this section even if the transaction is exempt from taxation under
2 IC 6-2.5-5.

3 **(b) Notwithstanding IC 6-2.5-2-2, with respect to the sale of**
4 **special fuel that is dispensed from a metered pump, unless the**
5 **purchaser provides an exemption certificate in accordance with**
6 **IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special**
7 **fuel sold, state gross retail tax in an amount equal to the product**
8 **of, rounded to the nearest one-tenth of one cent (\$0.001):**

9 **(1) the lesser of:**

10 **(A) the price per unit before the addition of state and**
11 **federal taxes; or**

12 **(B) the product of:**

13 **(i) one dollar and eighty-eight cents (\$1.88); multiplied**
14 **by**

15 **(ii) the gallon conversion index;**

16 **rounded to the nearest one cent (\$0.01); multiplied by**

17 **(2) six percent (6%).**

18 **Unless the exemption certificate is provided, the retail merchant**
19 **shall collect the state gross retail tax prescribed in this section even**
20 **if the transaction is exempt from taxation under IC 6-2.5-5.**

21 ~~(b)~~ **(c) With respect to the sale of ~~special fuel~~ or kerosene which**
22 **that is dispensed from a metered pump, unless the purchaser provides**
23 **an exemption certificate in accordance with IC 6-2.5-8-8, a retail**
24 **merchant shall collect, for each unit of ~~special fuel~~ or kerosene sold,**
25 **state gross retail tax in an amount equal to the product, rounded to the**
26 **nearest one-tenth of one cent (\$0.001), of:**

27 **(1) the price per unit before the addition of state and federal taxes;**
28 **multiplied by**

29 **(2) six percent (6%).**

30 **Unless the exemption certificate is provided, the retail merchant shall**
31 **collect the state gross retail tax prescribed in this section even if the**
32 **transaction is exempt from taxation under IC 6-2.5-5.**

33 **(d) For purposes of this section, the gallon conversion index is**
34 **the following:**

35 **(1) One (1), if the unit of measure by which gasoline or special**
36 **fuel is sold is a gallon.**

37 **(2) Five-tenths (0.5), if the unit of measure by which gasoline**
38 **or special fuel is sold is one-half (1/2) gallon.**

39 **(3) Twenty-six thousand four hundred seventeen one hundred**
40 **thousandths (0.26417), if the unit of measure by which**
41 **gasoline or special fuel is sold is a liter.**

42 **(4) An equivalent gallon conversion index specified by the**

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department if the unit of measure by which gasoline or special fuel is sold is not described in subdivision (1), (2), or (3).

SECTION 2. IC 6-2.5-7-14, AS AMENDED BY P.L.176-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Before June 10 and December 10 of each year, the department shall determine and provide to:

- (1) each refiner and terminal operator and each qualified distributor known to the department to be required to collect prepayments of the state gross retail tax under this chapter; and
- (2) any other person that makes a request;

a notice of the prepayment rate to be used during the following six (6) month period. The department shall also have the prepayment rate published in the June and December issues of the Indiana Register.

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

(A) The **lesser of the following**:

(i) The STEP ONE amount.

(ii) **For prepayments made after June 30, 2007, one dollar and seventy-seven cents (\$1.77).**

(B) The Indiana gross retail tax rate.

(C) Ninety percent (90%).

STEP THREE: Determine the lesser of:

(A) the STEP TWO result; or

(B) the product of:

(i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by

(ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent (\$0.001).

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) **IC 6-2.5-7-3, as amended by this act, applies to retail transactions that occur after June 30, 2007.**

(b) As used in this SECTION, "department" refers to the

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1 department of state revenue.

2 (c) The department may adopt temporary rules in the manner
3 provided for the adoption of emergency rules under IC 4-22-2-37.1
4 to implement IC 6-2.5-7-3, as amended by this act. The temporary
5 rules must provide a method for providing a credit or a refund of
6 any difference between the prepayment amounts paid or deposited
7 with the department by any person on the purchase or shipment of
8 gasoline in a reporting period ending before July 1, 2007, and the
9 gross retail rate imposed by IC 6-2.5-7-3, as amended by this act,
10 on the retail sale of the gasoline in a reporting period beginning
11 after June 30, 2007.

12 (d) A rule adopted under this SECTION expires on the earliest
13 of the following:

14 (1) The date a rule is adopted by the department under
15 IC 4-22-2 that repeals, amends, or supersedes the temporary
16 rule.

17 (2) The date another temporary rule is adopted under this
18 SECTION.

19 (3) The date specified in the temporary rule.

20 (4) July 1, 2008.

21 SECTION 4. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1622, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 32.

Page 4, line 34, delete "(a) With respect to" and insert "(a) **Notwithstanding IC 6-2.5-2-2**, with respect to".

Page 4, line 35, reset in roman "the sale of gasoline".

Page 4, line 35, after "which" insert "**that**".

Page 4, line 35, reset in roman "is dispensed from a metered pump, a retail".

Page 4, reset in roman lines 36 through 38.

Page 4, line 39, reset in roman "(1) the".

Page 4, line 39, after "taxes;" insert "**lesser of the:**

(A) price per unit before the addition of state and federal taxes; or

(B) product of:

(i) one dollar and seventy-seven cents (\$1.77); multiplied by

(ii) the gallon conversion index;

rounded to the nearest one cent (\$0.01);".

Page 4, reset in roman lines 40 through 42.

Page 5, reset in roman lines 1 through 2.

Page 5, between lines 2 and 3, begin a new paragraph and insert:

"(b) Notwithstanding IC 6-2.5-2-2, with respect to the sale of special fuel that is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel sold, state gross retail tax in an amount equal to the product of, rounded to the nearest one-tenth of one cent (\$0.001):

(1) the lesser of:

(A) the price per unit before the addition of state and federal taxes; or

(B) the product of:

(i) one dollar and eighty-eight cents (\$1.88); multiplied by

(ii) the gallon conversion index;

rounded to the nearest one cent (\$0.01); multiplied by

(2) six percent (6%).

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Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5."

Page 5, line 3, after "(b)" insert "(c)".

Page 5, line 3, strike "special fuel or".

Page 5, line 3, strike "which" and insert "**that**".

Page 5, line 6, strike "special fuel or".

Page 5, delete lines 15 through 42, begin a new paragraph and insert:

"(d) For purposes of this section, the gallon conversion index is the following:

(1) One (1), if the unit of measure by which gasoline or special fuel is sold is a gallon.

(2) Five-tenths (0.5), if the unit of measure by which gasoline or special fuel is sold is one-half (1/2) gallon.

(3) Twenty-six thousand four hundred seventeen one hundred thousandths (0.26417), if the unit of measure by which gasoline or special fuel is sold is a liter.

(4) An equivalent gallon conversion index specified by the department if the unit of measure by which gasoline or special fuel is sold is not described in subdivision (1), (2), or (3).

SECTION 2. IC 6-2.5-7-14, AS AMENDED BY P.L.176-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Before June 10 and December 10 of each year, the department shall determine and provide to:

- (1) each refiner and terminal operator and each qualified distributor known to the department to be required to collect prepayments of the state gross retail tax under this chapter; and
- (2) any other person that makes a request;

a notice of the prepayment rate to be used during the following six (6) month period. The department shall also have the prepayment rate published in the June and December issues of the Indiana Register.

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

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(A) The lesser of the following:

(i) The STEP ONE amount.

(ii) For prepayments made after June 30, 2007, one dollar and seventy-seven cents (\$1.77).

(B) The Indiana gross retail tax rate.

(C) Ninety percent (90%).

STEP THREE: Determine the lesser of:

(A) the STEP TWO result; or

(B) the product of:

(i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by

(ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent (\$0.001).

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) IC 6-2.5-7-3, as amended by this act, applies to retail transactions that occur after June 30, 2007.

(b) As used in this SECTION, "department" refers to the department of state revenue.

(c) The department may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-2.5-7-3, as amended by this act. The temporary rules must provide a method for providing a credit or a refund of any difference between the prepayment amounts paid or deposited with the department by any person on the purchase or shipment of gasoline in a reporting period ending before July 1, 2007, and the gross retail rate imposed by IC 6-2.5-7-3, as amended by this act, on the retail sale of the gasoline in a reporting period beginning after June 30, 2007.

(d) A rule adopted under this SECTION expires on the earliest of the following:

(1) The date a rule is adopted by the department under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.

(2) The date another temporary rule is adopted under this SECTION.

(3) The date specified in the temporary rule.

(4) July 1, 2008.

SECTION 4. An emergency is declared for this act."

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Delete pages 6 through 9.
Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1622 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 17, nays 2.

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